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10/823,829	04/14/2004	Michael A. Evans	CHORUS-07.01	5642
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EXAMINER				
HOEL, MATTHEW D				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/823,829

**Applicant(s)**

EVANS ET AL.

**Examiner**

Matthew D. Hoel

**Art Unit**

3714

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/CB/CIC)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 5, 7, 9, 11, 13, 16, and 21 to 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Wood, et al. (U.S. pre-grant publication 2002/0045154 A1).
3. As to Claims 1 and 9: Wood ('154) teaches an analytical method of providing human capital management information (Abst.; used for matching people to appropriate jobs, Paras. 177 & 337). Wood ('154) teaches a plurality of individual capability tests (plural tests, Para. 50; plural types of tests, Keirsey Temperament Sorter and other types, Para. 68; selecting from one of many tests, Para. 76; Paras. 109 to 125 list several types of personality tests available, including the Myers Briggs Type Indicator (113), the Keirsey Temperament Sorter (114)) to rate a plurality of competencies of an individual (competencies measured, Para. 109; competency-based personality data used, Paras. 109 & 117; job listing of competencies for ideal candidate, Para. 177; match based on competencies, Para. 337, see also 347 & 350). Wood ('154) teaches each of the personality tests being a standardized measure of a psychological construct

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(plural tests, Para. 50; plural types of tests, Keirsey Temperament Sorter and other types, Para. 68; selecting from one of many tests, Para. 76; Paras. 109 to 125 list several types of personality tests available, including the Myers Briggs Type Indicator (113), the Keirsey Temperament Sorter (114), personality test with 16 personality categories (112, 16 categories each listed in Paras. 210 to 226, 16 permutations of extroversion, sensation, thinking, and judging, 228-231)). Wood teaches obtaining responses to the plurality of questions of each of the plurality of capability tests from the individual (responses gathered to a series of tests, including personality tests, Para. 70). Woods teaches a computer-readable medium for carrying out the method (user logs on to terminal to communicate with server over the network, Figs. 1 & 2, Paras. 67 & 68).

4. Wood cross-references the responses relating to one of the personality attributes. This is done by the Keirsey Temperament Sorter in Paras. 195 to 233. Extroversion (E), Introversion (I), Sensation (S), Intuition (N), Thinking (T), Feeling (F), Judging (J), and Perceiving (P) are measured (Paras. 228 to 231). These attributes are cross-referenced to personality types Individualistic (ENFP), Enthusiastic (ENFJ), Ardent (INFP), Poetical (INFJ), Curious (ENTP), Born Leader (ENTJ), Intelligence (INTP), Behind-the-scenes Leader (INTJ), Bold (ESTP), Life of the Party or Impulsive (ESFP), Adventurous (ISTP), Kind (ISFP), Pillar of the Community or Responsible (ESTJ), Team Player (ESFJ), Dependable (ISTJ), and Sincere (ISFJ) (Paras. 211 to 226, respectively), so these four attributes are cross-references to 16 personality types or competencies. Wood in Para. 380 describes cross-referencing and matching similar answer patterns and behaviors stored in databases 2600 and in Para. 381 gives an

example of cross-referencing or correlating stock trading history and click histories indicating that the user is only interested in certain industries. Based on the correlation in Para. 381 recommendations are made to improve the user's trading and the system notes which articles the viewer saw to that others like him can see the same reports and articles. The cross-referencing of trading history and click history is an example of correlating attributes from a plurality of individual capability assessments. The examiner notes that Wood would thus cross-reference the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests (Para. 223 describing the Keirsey Temperament Sorter, ESTJ, pillar of the community, industrious, conscientious, responsible; Para. 243 describing the Keirsey Character Sorter, Supervisor or ESTJ, pillar of the community, industrious, conscientious, responsible), so Wood in '154 anticipates this newly claimed limitation. Para. 260 of Wood states that where a user would like to know his or her financial personality the use of the Keirsey Temperament Sorter together with other personality models and that when plural models are combined that a new categorization scale is created, so Wood does correspond responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests. Wood creates a comprehensive individual capability evaluation reports that rates the plurality of competencies, the report being at least partially based upon the cross-referring of the responses (Keirsey Character Sorter and Keirsey Temperament Sorter cross-referenced as outlined above), and provides the comprehensive individual capability evaluation to the individual (employment matching report based on selection of traits, skills, and competencies to a

potential employer, Para. 337; or career action plan to tell employee how to get along with boss, Paras. 337 to 309) by a display screen (user logs in at a computer terminal to take the Keirsey Temperament Sorter, Paras. 1 & 2, Paras. 67-68).

5. As to Claim 5: Wood teaches a computer server for providing human capital management across a computer network (Abst.; Figs. 1 & 2, Paras. 67-68). Wood teaches means for providing a plurality of individual capability tests (plural tests, Para. 50; plural types of tests, Keirsey Temperament Sorter and other types, Para. 68; selecting from one of many tests, Para. 76; Paras. 109 to 125 list several types of personality tests available, including the Myers Briggs Type Indicator (113), the Keirsey Temperament Sorter (114)) to rate a plurality of competencies of an individual (competencies measured, Para. 109; competency-based personality data used, Paras. 109 & 117; job listing of competencies for ideal candidate, Para. 177; match based on competencies, Para. 337, see also 347 & 350), the individual competency tests each having a plurality of questions used to assess a plurality of attributes associated with at least one of a plurality of competencies, each of the individual capability tests being a standardized measure of a psychological construct (plural tests, Para. 50; plural types of tests, Keirsey Temperament Sorter and other types, Para. 68; selecting from one of many tests, Para. 76; Paras. 109 to 125 list several types of personality tests available, including the Myers Briggs Type Indicator (113), the Keirsey Temperament Sorter (114), personality test with 16 personality categories (112, 16 categories each listed in Paras. 210 to 226, 16 permutations of extroversion, sensation, thinking, and judging, 228-231)). Wood teaches means for obtaining responses to the plurality of questions of

each of the plurality of individual capability tests from the individual (responses gathered to a series of tests, including personality tests, Para. 70). Wood teaches means for cross-referencing the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests to create a comprehensive individual capability evaluation that rates the plurality of competencies (Paras. 223, 243, 260, 380-381, as applied in the rejection of Claims 1 and 9). The examiner finds the structure of the means-plus-function language of the specification at Para. 25, 27-29, 34-36 to be equivalent in function to the structure of Wood cited above. To be novel, the apparatus claims must be structurally distinguishable over the prior art and the manner of operating the device does not differentiate claims over the prior art (MPEP 2114). For example, Para. 25 of the applicants' specification corresponds to Figs. 1 & 2 and Paras. 67 & 68 of Wood.

6. As to Claims 3, 7, 11, and 16: The plurality of questions of Wood pertain to initiative (take-charge, Para. 216) and energized team-building (gregarious, team player, Para. 224).

7. As to Claim 13: Wood teaches the providing step including an interactive computer server accessible over a computer network (Figs. 1 & 2, Paras. 67 & 68).

8. As to Claims 21 to 24: Woods asks questions pertaining to creativity (Paras. 109 & 123), motivation (Paras. 98 & 107), and innovation (Paras. 215 & 255).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 2, 4, 6, 8, 10, 12, 14, 15, and 17 to 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over '154 in view of Bonnstetter, et al. (U.S. patent 7,184,969 B1).

12. As to Claim 14: Wood discloses all of the limitations of Claim 14, but lacks specificity as to an individual action plan containing a listing of transformational activities for enabling the individual to improve identified competencies on the comprehensive individual capability evaluation. Wood ('154) teaches an analytical method of providing human capital management information (Abst.; used for matching people to appropriate jobs, Paras. 177 & 337). Wood ('154) teaches a plurality of individual capability tests (plural tests, Para. 50; plural types of tests, Keirsev Temperament Sorter and other types, Para. 68; selecting from one of many tests, Para. 76; Paras. 109 to 125 list



several types of personality tests available, including the Myers Briggs Type Indicator (113), the Keirsey Temperament Sorter (114)) to rate a plurality of competencies of an individual (competencies measured, Para. 109; competency-based personality data used, Paras. 109 & 117; job listing of competencies for ideal candidate, Para. 177; match based on competencies, Para. 337, see also 347 & 350). Wood ('154) teaches each of the personality tests being a standardized measure of a psychological construct (plural tests, Para. 50; plural types of tests, Keirsey Temperament Sorter and other types, Para. 68; selecting from one of many tests, Para. 76; Paras. 109 to 125 list several types of personality tests available, including the Myers Briggs Type Indicator (113), the Keirsey Temperament Sorter (114), personality test with 16 personality categories (112, 16 categories each listed in Paras. 210 to 226, 16 permutations of extroversion, sensation, thinking, and judging, 228-231)). Wood teaches obtaining responses to the plurality of questions of each of the plurality of capability tests from the individual (responses gathered to a series of tests, including personality tests, Para. 70). Woods teaches a computer-readable medium for carrying out the method (user logs on to terminal to communicate with server over the network, Figs. 1 & 2, Paras. 67 & 68).

13. Wood cross-references the responses relating to one of the personality attributes. This is done by the Keirsey Temperament Sorter in Paras. 195 to 233. Extroversion (E), Introversion (I), Sensation (S), Intuition (N), Thinking (T), Feeling (F), Judging (J), and Perceiving (P) are measured (Paras. 228 to 231). These attributes are cross-referenced to personality types Individualistic (ENFP), Enthusiastic (ENFJ), Ardent (INFP), Poetical (INFJ), Curious (ENTP), Born Leader (ENTJ), Intelligence

(INTP), Behind-the-scenes Leader (INTJ), Bold (ESTP), Life of the Party or Impulsive (ESFP), Adventurous (ISTP), Kind (ISFP), Pillar of the Community or Responsible (ESTJ), Team Player (ESFJ), Dependable (ISTJ), and Sincere (ISFJ) (Paras. 211 to 226, respectively), so these four attributes are cross-references to 16 personality types or competencies. Wood in Para. 380 describes cross-referencing and matching similar answer patterns and behaviors stored in databases 2600 and in Para. 381 gives an example of cross-referencing or correlating stock trading history and click histories indicating that the user is only interested in certain industries. Based on the correlation in Para. 381 recommendations are made to improve the user's trading and the system notes which articles the viewer saw to that others like him can see the same reports and articles. The cross-referencing of trading history and click history is an example of correlating attributes from a plurality of individual capability assessments. The examiner notes that Wood would thus cross-reference the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests (Para. 223 describing the Keirsey Temperament Sorter, ESTJ, pillar of the community, industrious, conscientious, responsible; Para. 243 describing the Keirsey Character Sorter, Supervisor or ESTJ, pillar of the community, industrious, conscientious, responsible), so Wood in '154 anticipates this newly claimed limitation. Para. 260 of Wood states that where a user would like to know his or her financial personality the use of the Keirsey Temperament Sorter together with other personality models and that when plural models are combined that a new categorization scale is created, so Wood does correspond responses relating to one of the plurality of attributes from at least two

of the plurality of individual capability tests. Wood creates a comprehensive individual capability evaluation reports that rates the plurality of competencies, the report being at least partially based upon the cross-referring of the responses (Keirsey Character Sorter and Keirsey Temperament Sorter cross-referenced as outlined above), and provides the comprehensive individual capability evaluation to the individual (employment matching report based on selection of traits, skills, and competencies to a potential employer, Para. 337; or career action plan to tell employee how to get along with boss, Paras. 337 to 309) by a display screen (user logs in at a computer terminal to take the Keirsey Temperament Sorter, Paras. 1 & 2).

14. Wood in '154 does not cite an individual action plan containing a listing of transformational activities for enabling the individual to improve identified competencies on the comprehensive individual capability evaluation. Bonstetter in '969 cites a listing of identified competencies on the comprehensive individual capability evaluation that need improvement (possible developmental needs: selecting best solution based on analysis of data, inspire and lead others, anticipate barriers or problems, contribute to team effectiveness, and involve others in decisions which affect the, Fig. 18E, 15:46-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine this with the career advice disclosed by Wood ('154) in Paras. 307 to 309 to produce the creation of an individual action plan containing a list of transformational activities to improve identified competencies. While Bonstetter does not cite cross-referencing competencies across plural tests, it is analogous art to Wood in that it discusses cross referencing competencies a cross plural subtests to develop a

desired profile for an ideal employee. Fig. 12B of Bonstetter asks the user's opinion of his or her personality type (15:8-9) in a first section. In a second section, Bonstetter asks the user for his or her opinions (Figs. 12C-F) while a third section (Figs. 12G-K) asks a user what he or she has actually done on the job (15:8-12), so these are three types of subtests within the same competency test. Regarding charisma/personal magnetism, the first competency of Fig. 12B, this is measured in section 3 at question 39 (leadership outside of work, Fig. 12J) and at question 6 (people have taken risks to support my goals, Fig. 12G) and in section 2 at question 8 (would not want responsibility of getting others to work towards goals, Fig. 12). Mentor/Facilitator, the second competency of 12B is measured in section 2 at question 10 (Fig. 12D) and question 28 (Fig. 12E) and in section 3 at question 3 (Fig. 12G) and question 41 (Fig. 12J). The results for the attributes corresponding to the competencies are cross-referenced between the two types of subtests at Fig. 13 in Bonstetter (15:20-25). Since the two references are thus analogous, the examiner believes that one of ordinary skill in the art would have wanted to use the feedback survey to identify areas that need improvement and thus provide a feedback plan for improvement to the user instead of just providing feedback how to improve a specifically solicited area, such as the employee asking how to improve relations with his boss (Wood, '154, Paras. 307-309) because this would have the advantage of proactively showing an employee how to improve his or her competencies instead of passively waiting for feedback from an evaluation, which may only come as infrequently as once per year.

15. As to Claims 2, 6, 12, and 15: Bonnstetter discloses a cross-referencing step includes creating a plurality of hallmark analysis within the comprehensive individual capability evaluation, each one of the plurality of hallmark analysis relating to a specific quality of the individual (Bonnstetter, Figs. 7E, 8E, 9E, and 10E, each individual scored in multiple competencies).

16. As to Claims 4, 8, and 10: The combination of Wood and Bonnstetter renders obvious the individual action plan containing a list of transformational activities to improve identified areas for the reasons outlined in the last paragraph of the rejection of Claim 14.

17. As to Claims 17 to 20: Bonnstetter discloses cross-referencing the competencies relating to a particular attribute to create a comprehensive individual capability evaluation report relating to the attributes (Bonnstetter, Figs. 17, 18A-D, comprehensive report of five attributes pertaining to loyalty (questions 1-5), five attributes pertaining to teamwork (questions 6-10), and five attributes pertaining to problem solving (questions 11 to 15; 15:55-64).

### ***Response to Amendment***

18. Applicant's arguments filed 07-18-2008 have been fully considered but they are not persuasive. The 101 rejections are withdrawn. A further examination of Wood leads the examiner to believe that the cross-referencing was anticipated. Since this aspect of the rejection is not necessitated by amendment, the action is non-final. The examiner believes that Wood anticipates the presently claimed cross-referencing for the

following reasons. Wood cross-references the responses relating to one of the personality attributes. This is done by the Keirsey Temperament Sorter in Paras. 195 to 233. Extroversion (E), Introversion (I), Sensation (S), Intuition (N), Thinking (T), Feeling (F), Judging (J), and Perceiving (P) are measured (Paras. 228 to 231). These attributes are cross-referenced to personality types Individualistic (ENFP), Enthusiastic (ENFJ), Ardent (INFP), Poetical (INFJ), Curious (ENTP), Born Leader (ENTJ), Intelligence (INTP), Behind-the-scenes Leader (INTJ), Bold (ESTP), Life of the Party or Impulsive (ESFP), Adventurous (ISTP), Kind (ISFP), Pillar of the Community or Responsible (ESTJ), Team Player (ESFJ), Dependable (ISTJ), and Sincere (ISFJ) (Paras. 211 to 226, respectively), so these four attributes are cross-references to 16 personality types or competencies. Wood in Para. 380 describes cross-referencing and matching similar answer patterns and behaviors stored in databases 2600 and in Para. 381 gives an example of cross-referencing or correlating stock trading history and click histories indicating that the user is only interested in certain industries. Based on the correlation in Para. 381 recommendations are made to improve the user's trading and the system notes which articles the viewer saw to that others like him can see the same reports and articles. The cross-referencing of trading history and click history is an example of correlating attributes from a plurality of individual capability assessments. The examiner notes that Wood would thus cross-reference the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests (Para. 223 describing the Keirsey Temperament Sorter, ESTJ, pillar of the community, industrious, conscientious, responsible; Para. 243 describing the Keirsey Character

Sorter, Supervisor or ESTJ, pillar of the community, industrious, conscientious, responsible), so Wood in '154 anticipates this newly claimed limitation. Para. 260 of Wood states that where a user would like to know his or her financial personality the use of the Keirsey Temperament Sorter together with other personality models and that when plural models are combined that a new categorization scale is created, so Wood does correspond responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests. Wood creates a comprehensive individual capability evaluation reports that rates the plurality of competencies, the report being at least partially based upon the cross-referring of the responses (Keirsey Character Sorter and Keirsey Temperament Sorter cross-referenced as outlined above), and provides the comprehensive individual capability evaluation to the individual (employment matching report based on selection of traits, skills, and competencies to a potential employer, Para. 337; or career action plan to tell employee how to get along with boss, Paras. 337 to 309).

19. Regarding the applicants' extensive citing of in re Zurko beginning on Page 11, the examiner did not take official notice in the last office action. The examiner probably miswrote when he stated that he did not see how Wood does not measure competencies. Wood does measure competencies upon further review (competencies measured, Para. 109; competency-based personality data used, Paras. 109 & 117; job listing of competencies for ideal candidate, Para. 177; match based on competencies, Para. 337, see also 347 & 350). Regarding the remarks on Page 13, Wood does measure a plurality of the attributes pertaining to a plurality of competencies. The

Keirsey Temperament Sorter (Paras. 195 to 233) and the Keirsey Character Sorter (Paras. 234 to 256) each measure 16 personality types or competencies based on various combinations of eight attributes, the attributes being extroversion versus introversion, sensation versus intuition, thinking versus feeling, and judging versus perceiving (Paras. 228 to 231). The examiner believes the personality types described by the Keirsey Sorters are competencies rather than attributes because the name of each personality type describes something that is actually done instead of merely an intrinsic quality (Promoter, Crafter, Performer, Composer, etc., Paras. 237-256). The attributes extroversion versus introversion, sensation versus intuition, thinking versus feeling, and judging are not so much things that are actively done but personality traits, which may lead to action, extroversion being a good example. Regarding the comments on Page 14, the examiner believes the Wood reference does disclose cross-referencing for the reasons outlined in the rejection of Claim 1. Cross referencing is mentioned in Para. 380. Wood is describing cross-referencing and matching similar answer patterns and behavior stored in databases 2600, which would be for example, the results of the Kiersey Temperament Sorter, the Keirsey Character Sorter, and the Myers Briggs Type Indicator. Regarding the remarks on Page 15, the examiner believes the providing of constructive feedback in identified areas to the user is obvious for the reasons outlined in the rejection of Claim 14. Wood teaches providing feedback in the form of advice to a user in a particular solicited area, getting along with one's supervisor, in Paras. 307-309. Bonnstetter in Figs. 18A-H and 15:55-64 identifies specific areas that need improvement and suggests employees using the information to



develop the competencies relevant to the job (15:61-62). The examiner believes this would have the advantage of making the Wood system more useful by allowing the employees to actively find out the areas they need advice in by diagnosis rather than merely asking about a particular area.

20. Regarding the affiant's remarks on Page 1, Wood does disclose multiple tests (multiple types of tests for acquiring personality data, Paras. 110 to 125, including Myers Briggs Type Indicator, Keirsey Temperament Sorter, etc.). The user in Wood is asked to select one test from many tests (Para. 76). Paras. 380 and 381 describe the cross-referencing of trading history and click history. Wood in general anticipates cross-referencing data from multiple test types as follows: This is done by the Keirsey Temperament Sorter in Paras. 195 to 233. Extroversion (E), Introversion (I), Sensation (S), Intuition (N), Thinking (T), Feeling (F), Judging (J), and Perceiving (P) are measured (Paras. 228 to 231). These attributes are cross-referenced to personality types Individualistic (ENFP), Enthusiastic (ENFJ), Ardent (INFP), Poetical (INFJ), Curious (ENTP), Born Leader (ENTJ), Intelligence (INTP), Behind-the-scenes Leader (INTJ), Bold (ESTP), Life of the Party or Impulsive (ESFP), Adventurous (ISTP), Kind (ISFP), Pillar of the Community or Responsible (ESTJ), Team Player (ESFJ), Dependable (ISTJ), and Sincere (ISFJ) (Paras. 211 to 226, respectively), so these four attributes are cross-references to 16 personality types or competencies. Wood in Para. 380 describes cross-referencing and matching similar answer patterns and behaviors stored in databases 2600 and in Para. 381 gives an example of cross-referencing or correlating stock trading history and click histories indicating that the user is only

interested in certain industries. Based on the correlation in Para. 381 recommendations are made to improve the user's trading and the system notes which articles the viewer saw to that others like him can see the same reports and articles. The cross-referencing of trading history and click history is an example of correlating attributes from a plurality of individual capability assessments. The examiner notes that Wood would thus cross-reference the responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests (Para. 223 describing the Keirsey Temperament Sorter, ESTJ, pillar of the community, industrious, conscientious, responsible; Para. 243 describing the Keirsey Character Sorter, Supervisor or ESTJ, pillar of the community, industrious, conscientious, responsible), so Wood in '154 anticipates this newly claimed limitation. Para. 260 of Wood states that where a user would like to know his or her financial personality the use of the Keirsey Temperament Sorter together with other personality models and that when plural models are combined that a new categorization scale is created, so Wood does correspond responses relating to one of the plurality of attributes from at least two of the plurality of individual capability tests. Regarding the arguments on Page 2 about answering questions about finance being a finance test, these arguments are no longer used in the body of the rejection because the claims have been amended, so this will not be addressed. Regarding the Bonnstetter reference the affiant discusses on Page 3, the examiner disagrees with the affiant's characterization of the Bonnstetter reference as identifying competencies. This is done in Bonnstetter (15:55-64) for improving employee performance. Bonnstetter also measures competencies, at least by self-

evaluation and by 360-degree evaluation including the supervisor and coworkers (15:45-54, describing Figs. 15-17). The affiant states on Page 3 that the claimed invention measures people using commercially available and professionally developed and validated tests. The examiner agrees with this characterization. Wood also does exactly this by using the Myers Briggs Type Indicator, the Keirsey Temperament Sorter, and the Keirsey Character Sorter (Paras. 110 to 125, KTR described from Para. 195 to 233, KCS described from Para. 234 to 256). Regarding Page 4, the applicant states that Bonnstetter is focused on determining the needs of the job and screening applicants accordingly, but this is not the sole application of the Bonnstetter system, as Bonnstetter also intended for it to be used to provide constructive feedback for developing employee skills for the job in question (15:61-62). Regarding the remarks on Page 5, the examiner is relying on the personality types of the Keirsey tests as competencies and the personality traits being measured as attributes: Wood does measure a plurality of the attributes pertaining to a plurality of competencies. The Keirsey Temperament Sorter (Paras. 195 to 233) and the Keirsey Character Sorter (Paras. 234 to 256) each measure 16 personality types or competencies based on various combinations of eight attributes, the attributes being extroversion versus introversion, sensation versus intuition, thinking versus feeling, and judging versus perceiving (Paras. 228 to 231). The examiner believes the personality types described by the Keirsey Sorters are competencies rather than attributes because the name of each personality type describes something that is actually done instead of merely an intrinsic quality (Promoter, Crafter, Performer, Composer, etc., Paras. 237-256). The

attributes extroversion versus introversion, sensation versus intuition, thinking versus feeling, and judging are not so much things that are actively done but personality traits, 3which may lead to action, extroversion being a good example. Regarding the affiants' remarks on Page 6, while the selection of job candidates may not be the primary reason for the Wood and Bonnstetter references, they are specifically cited for this use (Bonnstetter, 15:55-64). The job screening use of the Wood system is at least as important as the date-matching and friendship matching (Wood, Para. 336), as the job screening use of Wood is described throughout the specification (Abst., Paras. 153, 177, 305 to 309, 350). The examiner finds the affiant to be one of ordinary skill in the art but believes the preponderance of evidence weighs in favor of obviousness.

21. The examiner respectfully disagrees with the applicants and affiant as to the claims' condition for allowance.

### ***Conclusion***

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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